



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE



5275 Leesburg Pike, MS: IRTM  
Falls Church, VA 22041

In Reply Refer To:  
FWS-2019-00938

September 10, 2019

TRANSMITTED VIA EMAIL ONLY

Mr. Jimmy Tobias  
The Guardian, c/o MuckRock News  
411A Highland Avenue  
Somerville, Massachusetts 02144-2516

Dear Mr. Tobias:

This is a response to your Freedom of Information Act (FOIA) request received by the U.S. Fish and Wildlife Service (Service) on June 27, 2019, in which you requested the following:

*“Any and all guidances issued by the Interior Department to the Fish and Wildlife Service that guide or otherwise inform the implementation of the Migratory Bird Treaty Act M-Opinion signed by Daniel Jorjani in December 2017”.*

### Response

Your request was assigned tracking number FWS-2019-00938 and forwarded to staff in the Migratory Bird Program in Headquarters. Per our subject matter experts, the Department of the Interior has not issued any additional guidance to the Service since the M-Opinion (M-37050) was issued by the Office of the Solicitor. Therefore, there are no documents specifically responsive to your request. The Service, however, has issued internal guidance to staff. As a courtesy, we are providing a copy of this guidance as one pdf consisting of seven pages. This information is provided to you in its entirety.

### Mediation Services

With respect to this response, you may seek dispute resolution services from our FOIA Public Liaison, Cathy Willis by phone at 720-425-5173; by email at [cathy\\_willisa@fws.gov](mailto:cathy_willisa@fws.gov); or by mail at U.S. Fish and Wildlife Service; Attention: Cathy Willis, FOIA Public Liaison; 5275 Leesburg Pike, Falls Church, VA 22041.

Additionally, the 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation and does not affect the timing of filing an appeal with the

Department's FOIA & Privacy Act Appeals Officer. You may contact OGIS in any of the following ways. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road – OGIS, College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov), Web: <https://ogis.archives.gov>  
Telephone: 202-741-5770, Fax: 202-741-5769, Toll-free: 1-877-684-6448

### **Appeal Rights**

You may also appeal the adequacy of our search to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the FWS's response is in error. You must also include with your appeal copies of all correspondence between you and FWS concerning your FOIA request, including your original FOIA request and FWS's response. Failure to include with your appeal all correspondence between you and FWS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal. You may contact FOIA/Privacy Act Appeals Officer in any of the following ways:

DOI FOIA/Privacy Act Appeals Office  
Department of the Interior, Office of the Solicitor  
1849 C Street, N.W., MS-6556 MIB  
Washington, DC 20240  
Telephone: 202-208-5339, Fax: 202-208-6677  
Email: [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov)

### **Conclusion**

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements

of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This completes the Service's response to your request. We apologize for our delay. The fees associated with processing this request were less than \$50 and have been waived in accordance with 43 C.F.R. §2.37. If you have any questions, please contact Andreas Moshogianis by phone at (703) 358-2623 or by email at [andreas\\_moshogianis@fws.gov](mailto:andreas_moshogianis@fws.gov).

Sincerely,

For Cathy Willis, FOIA Officer  
U.S. Fish and Wildlife Service

Enclosure